

NOTICE OF PROPOSED ADOPTION OF REGULATIONS

CALIFORNIA EDUCATIONAL FACILITIES AUTHORITY

Sections 9020 through 9070 Title 4, Division 12 California Code of Regulations

NOTICE IS HEREBY GIVEN that the California Educational Facilities Authority (the “Authority”), organized and operating pursuant to Sections 94100 to 94216.11, inclusive, of the California Education Code (the “Act”), proposes to adopt regulations to amend and renumber Sections 9020, 9030, 9031, 9032, 9041, and 9043 of, and to add Chapter 2 (commencing with Section 9050) to Division 12 (commencing with Section 9001) of Title 4 of the California Code of Regulations in order to implement the Academic Assistance Program authorized pursuant to Section 94140 of, and Article 9 (commencing with Section 94215) of Chapter 2 of, Part 59 of the Education Code and to make corresponding and technical, conforming changes to the existing regulations.

Public Hearing

No public hearing regarding this proposed action has been scheduled. Anyone wishing a public hearing must submit a request in writing, pursuant to Section 11346.8 of the Government Code, to the Authority at least 15 days before the end of the Public Comment period. Such request should be addressed to the Authority Contact Person identified in this Notice and should specify the Academic Assistance Program Regulations for which the hearing is being requested.

Authority and Reference

These Regulations implement, interpret and make specific Article 9 (commencing with Section 94215) of Chapter 2 of Part 59 of the California Education Code (hereafter, Article 9). The Authority has authority to adopt these Regulations as permanent regulations pursuant to both of the following sections:

1. Section 94140(a) of the Education Code, which provides the Authority to “[a]dopt bylaws for the regulation of its affairs and the conduct of its business
2. Section 94215.7(a) of the California Education Code provides that “the authority in consultation with representatives of private colleges, qualified schools, and other appropriate parties, shall develop selection criteria and a process for awarding grants under this article [Article 9]...”.

The adoption of these Regulations as permanent regulations is necessary to carry out the express power of the Authority to award grants under Article 9 .

Informative Digest/Policy Statement Overview

Existing law authorizes the Authority to award grants to eligible private colleges to provide a program of academic assistance and services to pupils attending a qualified school, as defined in Section 94215.9 of the Act, in order to inform the pupils of the benefits of, and the requirements for, higher education; prepare these pupils for college entrance; or to provide programs, such as academic enrichment and mentoring programs, that advance the academic standing of those pupils. Existing law requires the Authority to develop selection criteria and a process for awarding grants that take into account at least certain factors when selecting recipients and determining grant amounts.

- These regulations would establish selection criteria and a process for awarding grants. More specifically:

California Code of Regulations (“CCR”) Section 9050 would interpret and clarify terms used in Sections 94215 and 94216 of the Act.

- CCR section 9051 makes specific the eligibility criteria for Private Colleges required pursuant to Section 94215.7 of the Act. The provisions authorize the Authority to require Private Colleges to be eligible under the California Educational Facilities Financing Act, to have academic accreditation, to not have “going concern” language in its most recent audited financial statements, to have submitted an Application Form in accordance with the Regulations, and to propose an eligible program.
- CCR section 9052 makes specific which programs may be funded.
- CCR 9053. implements and makes specific Section 94215.7 of the Act by authorizing the Authority to grant maximum awards of \$250,000 to qualified schools for eligible programs that do not exceed the dollar amount of the grant award.
- CCR 9054 establishes that all eligible private colleges interested in applying for a grant must complete an application.
- CCR 9055 specifies the time and manner of submitting an application to the Authority.
- CCR 9056 details the information required to be submitted in an application for a grant including financial information, organization information, legal information, information and certification regarding religion, an agreement and certification and a grant agreement.

- CCR 9057 details the manner in which applications will be reviewed, scored and ranked by staff.
- CCR 9058 details the criteria that will be used in evaluating applications including program effectiveness and commitment to success of the program, and program feasibility.
- CCR 9059 provides for notifying applicants of their scores and the proposed amount of initial allocation, establishes a minimum score required for funding, and allows for incremental grant disbursements.
- CCR 9060 establishes an appeals process for applicants including the circumstances under which an appeal may be filed, the timing of the appeal, and the review of the appeal by the staff and Authority.
- CCR 9061 provides for approval by the Authority of proposed grant awards and notification of approval to recipients.
- CCR 9062 specifies when the Authority, at its discretion, can award grants, in the event there are remaining grant funds after the first funding round.
- CCR 9063 specifies when the Authority or the Authority staff may have the discretion to consider a change in use of the grant funds.
- CCR 9064 specifies the terms and conditions that must be included in the agreement to be executed by the grantee.
- CCR 9065 specifies the information that must be provided to satisfy this requirement including verification that all other funds, if needed are in place, receipt of an executed grant agreement, and documentation that all conditions of funding have been satisfied.
- CCR 9066 specifies the documentation and timeframe for the expenditure of grant funds and requires the return of funds to the extent that matching funds were not received.
- CCR 9067 specifies that allocated grant funds that are returned for any reason are to be distributed to the next highest scoring applicant not receiving a grant allocation or if no such applicant exists or the applicant's project has been abandoned, then distribution will be made at the Authority's discretion in a manner consistent with the goals and spirit of the Act and this Chapter.
- CCR 9068 interprets and makes specific Section 94215.7(d) of the Act by requiring recipients to retain all program and financial data and to provide audited information to the Authority upon request.

- CCR Section 9069 clarifies the basis of a determination to require a recovery of grant funds for the grantee's failure to implement the program according to specified award terms.
- CCR 9070 makes specific the requirements of Section 94216 of the Act.

**Other Matters Prescribed by Statutes Applicable
to the Specific State Agency or to any
Specific Regulation or Class of Regulations**

No other matters are prescribed by statute applicable to the Authority or to any specific regulation or class of regulation pursuant to 11346.5(a)(4) of the Government Code pertaining to the proposed regulations or to the Authority.

Mandate on Local Agencies or School Districts

The Executive Director of the Authority has determined that the proposed Regulations do not impose a mandate on local agencies or school districts.

Fiscal Impact

The Executive Director of the Authority has determined that the regulations do not impose any additional cost or savings requiring reimbursement under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the California Government Code, any other non-discretionary cost or savings to any local agency or any cost or savings in federal funding to the State. Pursuant to the State Administrative Manual Section 6680, a Fiscal Impact Statement (Form 399) is submitted without the signature of a Project Budget Manager at the Department of Finance, as there are no fiscal impact disclosures required by State Administrative Manual Sections 6600-6670. There will be no cost or savings to any State Agency pursuant to Government Code Section 11346.1(b) or 11346.5(a)(6).

Alternatives

The Authority must determine that no reasonable alternative to the proposed regulations considered by the Authority or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the regulations.

The Authority invites interested persons to present statements with respect to alternatives to the Regulations during the written comment period.

Plain English Requirements

See the Informative Digest above for a plain English discussion of the broad and specific objectives of the proposed Regulations.

The express terms of the proposed Regulations written in plain English are available from the agency contact person named in this Notice.

Significant Statewide Adverse Economic Impact on California Businesses and Directly Affected Private Persons and Businesses

The Academic Assistance Program Regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. In fact, adoption of the Academic Assistance Program Regulations should result in grants to businesses eligible for participation in the Academic Assistance Program. The Academic Assistance Program will provide a funding source for a business interested in providing academic assistance and services to low- or very low-income students.

Assessment of Effect on Jobs and Business Expansion, Elimination or Creation

The adopted Academic Assistance Program Regulations will have a positive effect on jobs and new and existing businesses within the State of California by furthering the educational achievements of its residents. The adopted Academic Assistance Program Regulations will help the Authority to give financing assistance to more businesses in this state.

Cost Impact on Housing

The adopted Academic Assistance Program Regulations will not have any effect on housing.

Report Requirement

Under Section 9070 of the Regulations, an Applicant shall report to the Authority how funds were expended in each fiscal year that grant funds were disbursed, including a statement of sources and uses of funds for the Program. A final report on the status of the Program will be required at the end of the fiscal year following the final year that grant funds were expended. These reports by educational institutions are required to ensure the welfare of the people of the state of California by providing information that grant proceeds were expended according to the terms of approval.

Authority Contact Person

Written comments, inquiries and any questions regarding the substance of the Academic Assistance Program Regulations shall be submitted or directed to:

Barry Scarff, Program Officer
California Educational Facilities Authority
915 Capitol Mall, Room 590
Sacramento, California 95814
Telephone: (916) 654-5711
Fax: (916) 654-5362
Email: bscarff@treasurer.ca.gov

The following person is designated as a backup contact person for inquiries only regarding the Academic Assistance Program Regulations:

Kristine Scully, Analyst
California Educational Facilities Authority
Telephone: (916) 653-3213

Public Comment Period

The public comment period on the proposed regulatory action as described in this Notice will end on **August 1, 2005**. All comments must be submitted in writing to the Authority Contact Person by that time in order for them to be considered by the Authority.

Availability of Initial Statement of Reasons, Rulemaking File and Express Terms of the Proposed Academic Assistance Program Regulations

Pursuant to California Government Code section 11346.5(a)(16), the Authority has established a rulemaking file for this regulatory action, which contains those items required by law. The file is available for inspection at the Authority's office at 915 Capitol Mall, Room 590, Sacramento, California 95814, during normal business working hours. As of the date this Notice is published in the Notice Register, the rulemaking file consists of this Notice, the Initial Statement of Reasons and the proposed text of the Academic Assistance Program Regulations. Copies of these items are available, upon request, from the Agency Contact Person designated in this Notice. This address will also be the location for inspection of the rulemaking file and any other public records, including reports, documentation and other materials related to this proposed regulatory action. The Notice and proposed regulations will also be available on **June 17, 2005** on the State Treasurer's Office web site at <http://www.treasurer.ca.gov>.

After preparation of the Final Statement of Reasons, it will be made available at the above described address and website.

15-day Availability of Changes

After the public comment period ends and following a public hearing, if any is requested, the Authority may adopt the proposed regulatory action substantially as described in this Notice, without further notice, or may do so with modifications which are sufficiently related to the originally proposed text.

As required by Title 1, Chapter 1, Section 44, of the California Code of Regulations, the full text of any proposed Regulation that is changed or modified from the express language of originally proposed text, except nonsubstantial or solely grammatical changes, will be made available to the public with the change clearly indicates for at least fifteen (15) calendar days before the Authority adopts the proposed Academic Assistance Program regulations, as modified. All changes shall be noted using a uniform method which shall illustrate accurately all changes to the original text. Inquiries about and requests for copies of any changed or modified regulations should be addressed to the Authority Contact Person identified above in this Notice.